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PATENT
Docket No.: 022082-000610US
Customer No. 20350

TOWNSEND and TOWNSEND and CREW LLP

By:


Jo Ann Honcik Dallara

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Joan M. ROBBINS and Mark J.
CANTWELL

Application No.: 10/594,850

Filed: June 20, 2007

For: USE OF 5,10-METHYLENE
TETRAHYDROFOLATE FOR THE
TREATMENT OF CANCER

Confirmation No.: 3709

Examiner: Sznaidman, Marcos L.

Art Unit: 4173

**RESPONSE TO RESTRICTION
REQUIREMENT**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This communication is responsive to a request for an election of species mailed on January 9, 2008. Applicants do not believe that any fees are owed; however, should additional fees be owed, the Commissioner is authorized to deduct such fees from the undersigned's Deposit Account No. 20-1430.

In response to the request to elect a species, applicants elect species 1:
A composition comprising: i) a thymidilate synthase inhibitor (TS), ii) 5,10
methylene tetrahydrofolate, and iii) an anti-VEGF antibody.

For the disclosed species, applicants further elect:

- where the thymidilate synthase inhibitor is 5-fluorouracil [5-FU] and
- where the anti-VEGF antibody is bevacizumab (Avastin).

The elected species reads on claims 258-261 and 264-267.

Applicants traverse the restriction requirement and request reconsideration.

The claims are thought to satisfy PCT Rule 13.1. The rule states that unity requires "a single general inventive concept." The general inventive concept of the pending claims is the beneficial effects upon cancer patients when the variously recited drugs are administered. In addition, there are overlapping technical features between independent claim 268 and independent claim 258. Both independent claims 258 and 268 read on capecitabine and an anti-VEGF antibody.

With regard to the election of a species within Group I, the Examiner has requested applicants to select a TS inhibitor (5-FU from claim 259). It should be noted that capecitabine (claim 262) is a pro-drug of 5-FU and thus should the elected species be determined to be allowable, at a minimum, these claims should be rejoined.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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